HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 9799 OF 2005

Dated 10th July, 2006

Between:
L.Vijaya Kumari

… Petitioner

And

The Chief General Manager Telecom
Bharat Sanchar Nigam Ltd., A.P. Circle,
Hyderabad and two others.

…Respondents.

ORDER:

The petitioner, who is working as Junior Accounts Officer in Bharat Sanchar Nigam Limited, a Government of India Enterprise, has filed this writ petition questioning the disciplinary proceedings initiated vide Office Memorandum No. TA/INQ/56/Disc./1-1/05 dated 16.2.2005 as arbitrary and illegal and for a consequential direction to the respondents to continue the petitioner as Junior Accounts Officer on officiating basis along with other similarly situated employees.

The petitioner was initially appointed as Telecom Office Assistant in the year 1982 and was further promoted as Junior Accounts Officer. Disciplinary proceedings were initiated in exercise of powers under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. From the statement of imputations of mis-conduct alleged, the only misconduct stated is that the petitioner applied for consideration of her candidature for appointment to the post of Telecom Office Assistant in the Office of the Divisional Engineer, Telecommunications, Tirupathi in the year 1982 under the reserved quota meant for Scheduled Tribes by submitting bogus caste certificate from the revenue authorities suppressing the fact that she belonged to other community i.e. Ediga Balija caste.

The District Collector, Chittoor in his letter dated 20.10.1999 reported that the petitioner Smt. Vijayakumari belonged to Ediga Balija by caste and she was married to one Sri D.Rajendran in 1979 who belonged to Kathinayakan, a notified Scheduled Tribe. It is stated that said Rajendran had procured an S.T. certificate to the

petitioner through the then Tahasildar, Chandragiri and the petitioner herein produced the same to the Telecom authorities while applying to the post of Telecom Office Assistant. On the report of the District Collector to the effect that the caste of a person cannot be changed by virtue of marriage and as such she cannot claim the benefits of Scheduled Tribe and further as she confessed that she belonged to Ediga Balija caste, misconduct is alleged against the petitioner to the effect that she secured the employment in quota reserved for Scheduled Tribes by producing a bogus caste certificate.

Though the impugned order is questioned on several grounds, but, however, it is submitted by Shri V.Jagapathi, learned counsel for the petitioner that the caste certificate issued to the petitioner is in force and when such caste certificate is not cancelled by competent authority by following the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 and the rules made thereunder, it is not open for the respondents to initiate disciplinary proceedings terming the certificate to be bogus.

Smt. P.Sarada, learned Standing Counsel for respondents without disputing that the caste certificate is in force, submitted that the proceedings were initiated only basing on the report sent by the District Collector, who is the authority for cancellation of caste certificate under the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993).

Though it is submitted by the learned counsel for the petitioner that at the time of appointment, the petitioner had submitted the marriage certificate of the petitioner with Rajendran, who admittedly belonged to Scheduled Tribe community, but, in the same certificate, the caste of the petitioner was clearly mentioned as

Ediga Balija caste and in view of the law prevailing at that point of time, the case of the petitioner was considered in the quota reserved for Scheduled Tribes. There was no fraud on the petitioner for initiating proceedings at this point of time. It is further submitted that the proceedings are initiated only at the instance of complaints by the service associations though there is no fraud committed by the petitioner at the time of appointment in the year 1982.

Normally this court is slow in interfering with the disciplinary proceedings at this stage. But, however, in this case, it is not in dispute that the caste certificate issued to the petitioner basing on her inter-caste marriage in the year 1979 with late Rajendran who admittedly belonged to Scheduled Tribe is not yet cancelled. Though issuance of caste certificate and cancellation thereof in case of fraud and its procurement by wrongful means is governed by several orders issued from time to time by the Government, but, in the year 1993, Act 16 of 1993 was brought into force with a primary intention to consolidate the issue of Community Certificates relating to persons belonging to the Scheduled Castes, Scheduled Tribes and Backward Classes and matters connected therewith and incidental thereto. Under the said Act, specific power is conferred only on the District Collector for cancellation of caste certificate. In this case, it is not in dispute that the caste certificate was obtained by the petitioner from the then competent authority and the same is in force and not cancelled by the competent authority i.e. the District Collector by following the procedure contemplated under Section 5 of Act 16 of 1993. As long as the said certificate issued to the petitioner is not cancelled, the said certificate has to be treated as a valid one and it is not open for the employer to decide the correctness of such certificate issued to the petitioner. When the statute confers power on a particular authority, the said authority alone is competent to take action for cancellation and no other

authority gets power. From a reading of provision under Section 5 of the said Act, it is very clear that where a person not belonging to any of the Scheduled Castes, Scheduled Tribes or Backward Classes obtains a false Community Certificate, before or after the commencement of the Act, the District Collector may either suo motu or on a written complaint by any person, call for the record and enquire into the correctness of such certificate and if he is of the opinion that the certificate was obtained fraudulently, he shall, by notification, cancel the certificate.

Though several other grounds are also raised that there was no fraud at all, as admittedly, the petitioner was married to a Scheduled Tribe in the year 1979 and that she herself shown that she belonged to Ediga Balija, which is a Backward Class, but, however, having regard to the fact that the certificate itself is in force and is not cancelled, there is no need for this court to go into various other grounds raised in the writ petition. On the short ground that the caste certificate issued to the petitioner is in force and is not cancelled and it is not open for the employer to go into the correctness or otherwise of the caste certificate in view of the provisions under Act 16 of 1993, the impugned proceedings are liable to be quashed. Accordingly, the impugned proceedings No.TA/INO/56/Disc./1-1/05, dated 16.2.2005 are quashed. However, this will not preclude the respondents to take appropriate steps in accordance with law.

The writ petition is allowed to the extent indicated above. No costs.

_____

10--7—2006 **(R.SUBHASH REDDY, J.)**

VR